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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,424	08/25/2003	John McFarland Harris	CE10278R (78910)	2794
22917	7590	12/13/2006	EXAMINER	
MOTOROLA, INC. 1303 EAST ALGONQUIN ROAD IL01/3RD SCHAUMBURG, IL 60196				SMITH, SHEILA B
		ART UNIT		PAPER NUMBER
		2617		

DATE MAILED: 12/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/647,424	HARRIS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Sheila B. Smith	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 02 October 2006.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-21 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 18-21 is/are allowed.

6) Claim(s) 1-9,22-25 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date: _____	6) <input type="checkbox"/> Other: _____

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-9,22-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Duault et al. (U.S. Patent Number 6,912,224).

*Regarding claim 1, 22-25*, Duaultet al. discloses essentially all the claimed invention as set fourth in the instant application, further Duaultet al. discloses a adaptive playout buffer and method for improved data communication. In addition Duaultet al. discloses a method for regulating a remaining depth of a buffer (POB) in a destination mobile unit (edge nodes 110), the method comprising: receiving at least one communication from a source mobile unit (which reads on a data receiver apparatus) in a buffer (which reads on column 2 lines 42-67), the buffer having an associated depth; playing the communications received at the buffer to a recipient at the destination mobile unit (edge nodes 110); determining the remaining depth of the buffer in the destination mobile unit (edge nodes 110); and sending an indication to the source mobile unit when the remaining depth of the in the destination mobile unit reaches a predetermined threshold (which reads on column 2 lines 42-67).

*Regarding claims 2-3*, Duaultet al. discloses everything claimed as applied above (see claim 1), in addition Duaultet al. discloses encoding and transmitting the communications from

the source mobile unit to the destination mobile unit at a coding rate; receiving the indication from the destination mobile unit; and adjusting the coding rate of the communications sent from the source mobile unit to the destination mobile unit as a function, at least in part, of the indication received from the destination mobile unit (which reads on column 2 lines 42-67).

***Regarding claim 4, 7,*** Duaultet al. discloses everything claimed as applied above (see claim 1), in addition Duaultet al. discloses sending an indication comprises sending a real-time transport protocol (RTP) header (which reads on column 1 lines 28-36).

***Regarding claim 5,8,*** Duaultet al. discloses everything claimed as applied above (see claim 1), in addition Duaultet al. discloses receiving an indication comprises receiving a negative acknowledgment message for a frame (which reads on column 3 lines 54-67).

***Regarding claim 6,9,*** D'Amico et al. discloses everything claimed as applied above (see claim 1), in addition D'Amico et al. discloses regulating a coding rate of communications transmitted from a source wireless unit to a destination wireless unit, the method comprising: encoding communications in a vocoder at the source mobile unit at a coding rate and transmitting the communications to the destination unit; receiving an indication from the destination mobile unit; and adjusting the coding rate of the vocoder in the source mobile unit according to the indication received from the destination mobile unit (which reads on column 3 lines 54-67).

***Allowable Subject Matter***

2. Claims 18-21 are allowed.

***Response to Arguments***

3. Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheila B. Smith whose telephone number is (571)272-7847. The examiner can normally be reached on Monday-Thursday 6:00 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on 571-272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

S. Smith  
December 11, 2006

  
JOSEPH FEILD  
SUPERVISORY PATENT EXAMINER